

REMARKS

Claims 1-25 were submitted for examination. Claims 1-25 stand rejected under 35 U.S.C. 102 (a) and (e) as being anticipated by Haartssen et al. (WO 01 99384). In view of the following remarks, Applicant submits that all claims remaining in the case are in condition for allowance and that all other objections have been overcome.

As a preliminary matter, Applicant notes that form PTO-326 submitted with the Office Action indicates at item 9 that “the specification is objected to by the Examiner.” However, no indication is given in the Office Action regarding such objections. In the absence of further guidance, Applicant has assumed that the statement on form PTO-326 is a typographical error. Accordingly, no changes to the Specification have been made in regard to the alleged objection. However, in the event this assumption is incorrect, Applicant invites the Examiner to specify with particularity the objectionable matter.

Regarding the claims, Claims 1-25 stand rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Haartssen. Haartssen discloses an algorithm for selecting a packet type based on the condition of a wireless channel. In particular, Haartssen discloses an algorithm for selecting a Bluetooth packet type, from among packet types that vary in length and encoding, based on the condition of a Bluetooth channel.

The Office Action fails to present a prima facie case of anticipation for Applicants' claims. “[F]or anticipation under 35 U.S.C. 102, the reference must teach *every aspect* of the claimed invention ...” MPEP 706.02 (emphasis added). “The identical invention must be shown in as complete detail as contained in the ... claim.”

Richardson v., Suzuki Motor Co., 868 F. 2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Haartssen simply fails to disclose every aspect of the claimed invention.

Throughout the Haartssen description and claims, it is made clear that the only action taken in response to a determination of channel conditions is the selection of a packet type (See, Description, p. 1, para. 2 “...it is desirable to be able to provide a way to select the packet type, and to do so dynamically based on the condition of the wireless channel.) This focus on selection of packet type is made clear throughout the specification and claims. See, e.g., Summary of the Invention, p. 3: “the present invention is related to a method or an apparatus of dynamically selecting a packet type based on the quality estimates of the channel.” Nowhere in Haartssen is a disclosure, teaching or even hint of a suggestion that the data transmission rate of packets may be modified based on channel conditions.

Of course, one would not expect Haartssen to disclose modification of transmission rate because, in contrast to WLAN technology, Bluetooth transmissions all occur at a single bit rate. At p. 10, l. 25, Haartssen indicates that Table 1 shows *achieved* data rate, not transmission rate. Of course, the implication is that all the packets are transmitted at the same data rate. Rather than disclose increasing or reducing the bit rate, Haartssen discloses that *shorter packets*, not increased data rate, are used “in order to decrease the probability that a packet will be corrupted by interference.” Haartssen, p. 15, l. 3-4.

The Haartssen algorithm discloses only two parts: determining which packet type is the best to use for a certain channel condition, and determining when to change the packet type. Haartssen, p. 10, lines 8-12. That’s it. There is simply no suggestion or teaching of changing the transmission rate. “The packet type selector 54 selects the type

of packet to be used that will minimize the effects of the noise and/or interference on the network connection.” Haartssen, p. 20, 19-12.

The Office Action states that the limitation of stepping up a bit rate at which a packet is transmitted disclosed at page 2, para. 3 – page 3, para. 2 of Haartssen.

Applicant respectfully but strenuously disagrees. The cited portion of Haartssen discloses known spread spectrum techniques and does not in any way disclose, teach or suggest stepping up a bit rate. The cited portion of Haartssen discloses that Direct Sequence Spread Spectrum (DSSS) is an example of interference suppression while Frequency Hopped Spread Spectrum (FHSS) is a technique based on interference avoidance. Such disclosure of known methods does not in any way disclose, teach or suggest the limitations of the claims presented by Applicant. Indeed, both DSSS and FHSS are similarly disclosed by Applicants. See paragraph 16 (“The 802.11(b) communication standard uses direct-sequence spread spectrum (DSSS). Bluetooth technology is based on FHSS.”) Thus, the cited portion of Haartssen merely discloses that which Applications disclose as known – the DSSS and FHSS techniques. It simply does not disclose, teach or suggest the limitations of Applicants claims.

The Office Action further asserts that Tables 1-2 of Haartssen discloses means for adjusting “plural packet characteristics based on channel conditions.” Office Action, p. 4. However, Tables 1-2 do not suggest, disclose or teach the limitations of Applicant’s claims. Claim 17 claims control logic to “step up data transfer rate at which future data packets are to be transmitted.” Claims 29 and 43 claim, “increasing the transmission rate for the wireless channel while maintaining the packet length.” Claim 34 claims “declining to decrease the transmission rate if the interference is intermittent.” While Haartssen may indeed disclose adjustment of packet characteristics such as packet length

and encoding, it simply does not disclose, teach or suggest adjustment of the rate at which packets are transmitted over a wireless channel.

In contrast to the teachings of Haartssen, Claim 28, and Claim 29 and those claims depending on Claim 29, as well as Claims 36 and 37 all claim maintaining the original packet length at the increased rate. Haartssen clearly teaches away from such claims.


Accordingly, all independent claims are in condition for allowance. For at least the foregoing reasons, all dependent claims are also in condition for allowance.

Applicant respectfully submits that the applicable rejections have been overcome and must all be withdrawn. All claims are therefore in condition for allowance.

Please charge any shortages and credit any overcharges to our Deposit Account No. 02-2666.

Respectfully submitted,

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